

ORIGINALFILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII**United States District Court**

for the

DISTRICT OF HAWAIIJAN 05 2006
at 10 o'clock and 49 min. AM
SUE BEITIA, CLERK**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender***(Probation Form 49, Waiver of Hearing is Attached)*

Name of Offender: PAULA MERCADO

Case Number: CR 04-00023HG-01

Name of Sentencing Judicial Officer: The Honorable Helen Gillmor
Chief U.S. District Judge

Date of Original Sentence: 3/18/2005

Original Offense: Possession of a Firearm by an Unlawful User of a Controlled
Substance, in violation of 18 U.S.C. § 922(g)(3), a Class C felony

Original Sentence: Eleven (11) months imprisonment to be followed by a three (3) year term of supervised release with the following special conditions:

1) That the defendant participate in a substance abuse program, which may include drug testing at the discretion and direction of the Probation Office; 2) That the defendant provide the Probation Office access to any requested financial information; 3) That the defendant shall submit her person, residence, place of employment, or vehicle to a search conducted by the U.S. Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other resident that the premises may be subject to search pursuant to this condition; and 4) That the defendant shall take whatever measures are necessary to improve her health to enable her to become gainfully employed and to maintain employment for a minimum of 20 hours per week during the period of supervised release.

Modification of
Sentence:

On 10/10/2005, the Court granted a modification of the conditions of supervised release by amending the VCCA Mandatory Condition as follows:

That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision (mandatory condition).

Type of Supervision: Supervised Release Date Supervision Commenced: 6/28/2005

PETITIONING THE COURT

[✓] To modify the conditions of supervision as follows:

Mandatory Condition: That the defendant shall participate in a mental health program at the discretion and direction of the Probation Office.

CAUSE

On 11/29/2005, the Court was informed by way of a Probation Form 12A Report on Offender Under Supervision, that the subject's urine specimen submitted on 11/4/2005 tested positive for methamphetamine. The Court was informed that the subject was pending an assessment on 11/30/2005 at the Big Island Substance Abuse Council (BISAC) and was seeking entry into its Intensive Outpatient Program (IOP) and its Therapeutic Living Program (TLP). The TLP is a clean sober living home that provides a structured residence for individuals participating in the BISAC IOP. The Court was further notified that if the subject was not accepted into the BISAC TLP, the Probation Office would provide a follow-up report.

On 12/14/2005, the intake coordinator at BISAC reported that on 11/30/2005, the subject attended an assessment interview. On 12/12/2005 the intake coordinator and BISAC treatment team met and reviewed the subject's request to enter its TLP program. Based upon the fact that the subject had not submitted a positive urine sample since 11/4/2005, and their assessment that her recent use of methamphetamine was not extensive, the treatment team determined that the subject did not meet the clinical criteria to qualify for the TLP. The intake coordinator reported that the subject presented a positive attitude and assured this officer that she was cooperative and forthcoming regarding her substance abuse. In the alternative, the coordinator recommended increased drug treatment at the subject's current drug treatment program, the Lokahi Treatment Center (Lokahi).

On 12/19/2005, the subject's substance abuse counselor at Lokahi was contacted. She reported that the frequency of the subject's drug treatment has been increased from two sessions per week (3 hours each session) to three sessions per week. Additionally, the subject's counselor indicated that the subject may suffer from depression. She reported that Lokahi has a psychiatrist on staff and that in

January 2006, they are adding a mental health (dual diagnosis) component to their drug treatment program. She recommended that in addition to the current drug treatment, the subject receive mental health treatment through the Lokahi dual diagnosis program.

On 12/20/2005, this officer contacted the subject and discussed the availability of mental health treatment. The subject admitted to this officer that ever since the death of her mother in 2004, she has felt depressed. The subject stated that she is willing to participate in mental health (dual diagnosis) treatment at Lokahi.

Given the subject's desire to address both her substance abuse and mental health problems, it is recommended that the Court allow the subject to continue with drug treatment and begin mental health treatment (dual diagnosis) at the Lokahi program. Additionally, the subject will continue to be drug tested at the highest phase of testing.

Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives her right to a hearing and to assistance of counsel. The subject agrees to the modification of the conditions of supervised release. The subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification.

Respectfully submitted by,



MARK T. NUGENT
U.S. Probation Officer

Approved by:



PETER D. YOSHIHARA
Supervising U.S. Probation Officer

Date: 12/23/2005

THE COURT ORDERS:

- ☒ The Modification of Conditions as Noted Above
☐ Other



HELEN GILLMOR
Chief U.S. District Judge

1.4.06

Date

12/20/2005 15:26 FAX

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PROB 49
(5/96)**United States District Court****District of Hawaii****Waiver of Hearing to Modify Conditions
of Probation/Supervised Release and/or Extend Term of Supervision**

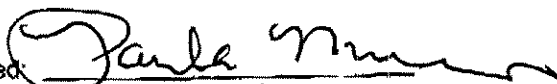
I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

- ☐ To extend the term of supervision for years, for a total term of years.
☒ To modify the conditions of supervision as follows:

6 That the defendant shall participate in a mental health program at the discretion and direction of the Probation Office

Signed



Paula Mercado
Supervised Releasee

12-23-05

Date